REMARKS

Claims 1-25 remain in the application. Claims 1, 8, 15, 16, and 20-25 have been amended. Claims 9-14 have been canceled. Applicant respectfully requests reconsideration.

CLAIM REJECTIONS UNDER 35 USC §101

The Office Action rejected claims 1-25 under 35 USC 101 as directed to non-statutory subject matter because they allegedly disclose a claimed invention that is an abstract idea as defined in the case *In Re Warmerdam*, 33 F 3d 1354 (Fed. Cir. 1994). The *Warmerdam* case the Federal Circuit affirmed a rejection based on a mathematical algorithm rejection. *Warmerdam,* 33 F 3d 1354, 1359. The court said that the only practical embodiment of the invention claimed in that case involved steps essentially mathematical in nature. *Warmerdam,* 33 F 3d 1354, 1360. The court in *Warmerdam* defined an abstract idea as a basic mathematical construct. *Id*. This is not the case with the instant invention which is not a mathematical algorithm or construct but a method and system for sending servers a single configuration package that configures each of the server computers to execute an application. However, Applicants have amended claims 1, 8, 15, 16, and 20-25 and cancelled claims 9-14 from further consideration in this application. Applicants are not conceding in this application that those claims are not patentable, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the allowable subject matter noted by the examiner. Applicants respectfully reserve the right to pursue these and other claims in one or more

continuations and/or divisional patent applications.

CLAIM REJECTIONS UNDER 35 USC §103

The Office Action has finally rejected claims 1-25 under 35 USC 103(a) as being unpatentable over Gupta et al. USPN 6,868,448 in view of Mann et al. USPN 6,922,722. Applicant respectfully requests reconsideration.

With respect to claim 1, the Office Action contends that Gupta teaches "transferring to a plurality of servers packages." Office Action at page 2. That statement misconstrues Applicant's claims which require that a single configuration package is sent to a plurality of servers.

Gupta teaches away from applicant's claimed invention. Consider the following discussion:

"Using embodiments of the invention, it is not necessary to pre-configure the local application server to satisfy a request of the server. The local application server can be configured dynamically (e.g., as needed) in response to requests. For example, there is no need to install application code or services on the local application server in anticipation of a request. If the local application server is not configured to handle a request, the local application server dynamically configures itself to satisfy the request. A request for information, such as application code (e.g., an applet) by a client, can be serviced by the local application server with its existing configuration or a new configuration. Further, by using the local server, it is possible to access local resources in an efficient way from the local server without using signed applets

(which requires a costly infrastructure and certificates management). Thus, all of the applets are downloaded from the local server regardless of the application server. Proxies are installed in the local server and communicate with the application servers. Therefore, it is possible for applets to share services in the network using the proxies downloaded in the local server.

Further, because the user downloads all of the applets from the local server, the application server locations and URLs are transparent to the user, and from the user perspective, all applications are local. Consequently, from the applet perspective, all services are available on the local server, and the resource locator/handler (discussed below) running in the local server downloads the proxies for the actual services and makes the locations transparent for the applet. In addition, since the applet is obtaining all services from the local server, a signed applet infrastructure is not required."

Considering claim 1, Gupta teaches sending different software to different servers. If Gupta were sending out the same package to all servers then there would be no need for a server to request application code from another server. The fact that such an additional step is necessary means that the first transmission did not satisfy the server's needs. Therefore, the second transmission must be different from the first. Therefore, claim 1 is patentable over Gupta.

Claims 2-7 are dependent on claim 1 and are patentable for the foregoing reasons.

Claim 8 has been amended such that the application and configuration data provided are the same for each server and is hence patentable for the foregoing reasons.

Claims 9-14 have been canceled, thus mooting their rejection.

Claim 15 requires that the package transferred to the plurality of servers is the same for each of the plurality of servers and is hence patentable for the foregoing reasons.

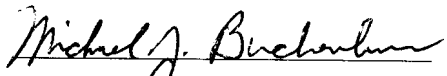
Claim 16 has been amended to recite that each server can execute the application solely on the server. The combination of Gupta and Mann does not teach this last limitation. Rather the combination teaches the use of another server to further provide an application. Claims 17-19 are dependent on claim 16 and hence are also patentable.

Claim 20 requires that the server configuration data is the same for each of the plurality of servers. As discussed above that limitation is neither taught nor suggested by Gupta or Mann.

Claims 21-25 are dependent on claim 20 and hence are also patentable.

For the foregoing reasons, Applicant respectfully requests allowance of the pending claims.

Respectfully submitted,



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